

REMARKS/ARGUMENTS

The Office Action mailed August 7, 2006 has been reviewed and carefully considered. Claims 12 and 17-28 are pending in this application, with claim 12 being the only independent claims. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claim Amendments

Claim 12 is amended to incorporate the limitations of claims 13 and 14. The previously added limitations to claim 12 are canceled from claim 12 and restated in dependent claims 26 and 28. Claims 20, 21, and 22 are each rewritten in dependent form as dependent from independent claim 12. Claims 13 and 14 are canceled without prejudice. Claims 17 and 19 are amended to depend on dependent claim 26. Claim 25 is amended to be consistent with independent claim 12.

New claim 28 recites “each of said first and second angles is in the range 4° to 13°”. Support for this limitation is found at page 4, lines 17-22, of the English translation of the specification.

New claim 29 recites “wherein each of said first and second slots is configured so that an extent of each of said first and second slots in a direction of the longitudinal axis of the channel is greater than an extent of the each of the first and second slots in a direction transverse to the longitudinal axis of the channel”. Support for this limitation is found in Fig. 1.

New claim 30 recites “wherein said receiving channel is arranged and dimensioned for receiving a bone cylinder of a predetermined thickness and length obtained using a punch sleeve”. Support for this limitation is found on page 3, lines 6-11.

Rejections of Claims

Claims 12-15, 19, and 25 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Publication No. 2002/0082604 (Abdelgany).

Claims 12, 17, and 21 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 3,596,898 (Hilburn).

Claims 17, 18 and 24 stand rejected under 35 U.S.C. §103 as unpatentable over Abdelgany.

Independent claim 12 is amended to recite “said first and second slots being configured to guide a saw blade introduced through said slots for cutting a bone piece received in said receiving channel to a predetermined wedge shape usable for displacement osteotomy”.

In the Office Action of August 7, 2006, the Examiner indicated that statements of intended use and other functional statements do not impose structural limitations distinguishable over Abdegany. However, the above recitation of claim 12 defines structural attributes of the slots. There is nothing inherently wrong with defining some part of an invention in functional terms. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971). Neither Abdelgany nor Hilburn disclose such a configuration. Abdegany discloses only slots configured for the formation of a bone graft. The only embodiment of Abdelgany that discloses intersecting slots is Fig. 7c. In that Figure, the slots are used for making an elliptically shaped bone graph (see paragraph 0035, lines 12-15). Accordingly, these slots are not “configured to guide a saw blade introduced through said slots for cutting a bone piece received in said receiving channel to a predetermined wedge shape usable for displacement osteotomy”, as expressly recited in independent claim 12. Thus, independent claim 12 is not anticipated by Abdelgany.

Hilburn discloses a pipe holder and does not disclose a mounting part with first and second slots. Accordingly, independent claim 12, as amended, is not anticipated by Hilburn.

Furthermore, independent claim 12 is not obvious over the prior art of record because neither Abdelgany nor Hilburn discloses, teaches or suggests how to configure slots in the respective mechanisms to guide a saw blade for cutting a bone piece usable for displacement osteotomy.

Dependent claims 17-28 are allowable for at least the same reasons as is independent claim 12.

New dependent claim 28 recites “each of said first and second angles is in the range 4° to 13°”. This is not disclosed by the prior art of record.

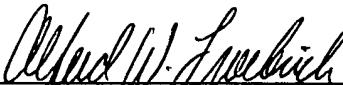
New dependent claim 29 recites “so that an extent of each of said first and second slots in a direction of the longitudinal axis of the channel is greater than an extent of the each of the first and second slots in a direction transverse to the longitudinal axis of the channel”. This feature is also not disclosed in the prior art of record. In fact, Abdelgany discloses the opposite configuration in which the longitudinal extent of a slot is shorter than the transverse extent.

New dependent claim 30 recites “wherein said receiving channel is arranged and dimensioned for receiving a bone cylinder of a predetermined thickness and length obtained using a punch sleeve”. None of the prior art discloses this feature.

Thus, new dependent claims 28, 29, and 30 are each allowable for at least these additional reasons.

In view of the above amendments and remarks, the application is now deemed to be in condition for allowance and notice to that effect is solicited.

Respectfully submitted,
COHEN PONTANI LIEBERMAN & PAVANE LLP

By 
Alfred W. Froebich
Reg. No. 38,887
551 Fifth Avenue, Suite 1210
New York, New York 10176
(212) 687-2770

Dated: December 7, 2006